

IN THE COURT OF THE ADDITIONAL DISTRICT JUDGE, DHARMAPURI

Present: Tmt.U.Monica,M.L.,
Additional District Judge,
Dharmapuri.

Tuesday, this the 23rd day of September 2025

I.A.No.13/2025

in

O.S.No.108/2019

1.T.Natarajan.

2.T.Jawahar.

...Petitioners/ defendants 1

and 2

/versus/

Rajeswari

... Respondent/plaintiff.

This petition is coming on 22.9.2025 for final hearing before me in presence of Mr.A.Sivaraju, Advocate for petitioners and Mr.M.Premkumar, Advocate for respondent. Upon hearing both side arguments, on perusal of the entire case records and having stood over till this day, this court pronounces the following order:

ORDER

This petition has been filed under section 12 of Tamil Nadu Court Fee and Suit Valuation Act r/w order 14 rule 2 of CPC.

2. The averments in the petition in brief is as follows:

This Court has framed Additional Issue with regard to Court fees on 11.09.2025. Such additional issue was framed on the basis of petition filed for framing additional issue with regard to court fee. This issue relating to sufficiency of court fees and proper valuation of the Suit has to be taken up as a preliminary issue. This is mandatory as per

the decision of the Hon'ble Division Bench of the Hon'ble High Court of Madras dated 27.09.2025 in the case of S.N.S.Sukumaran Vs C.Thangamuthu. If this issue relating to court fees is not taken up as preliminary issue, petitioner suffer very great hardship and irreparable injury. The legitimate rights will stand seriously prejudiced. It will result in miscarriage of justice as well. Therefore, Court may be pleased to take up the issue relating to Court Fees and Valuation of the Suit as a preliminary issue and decide the same accordingly and thus render justice.

3. The counter filed by the third respondent in brief is as follows:

i) The petitioners being the defendants in the suit with the malign intent to protract the proceedings had come forward with the frivolous and vexatious application. The petitioners had not raised the aforesaid issued in the written statement filed at the first instance nor after the receipt of the suit summons having proceeded with the suit and the plaintiff was cross examined by the defendants and when the matter was posted for further evidence.

ii) The Trial has been commenced and Plaintiff side evidence was completed and at this stage, the present application seeking to decide the alleged insufficient court fee as preliminary issue is ordained only for the purpose of protracting the suit endlessly.

iii) The petitioners had come forward to file the present petition only with the intent to drag the proceedings and further it is pertinent to note that at the first instant, the petitioners herein was set exparte later they had filed set aside exparte petition and

the same was being allowed by this court. Petitioner was examined as PW1 as early as on 02.11.2019 and subsequently, the petitioner herein had earlier come up with a petition under Order 7 Rule 11 CPC in I.A.No.9 of 2025 in O.S.No.108 of 2019 and the said petition was dismissed vide order dated 24.04.2025, aggrieved as against the said order, the petitioners herein had preferred CRP No.2236 of 2025 before the Hon'ble High Court of Judicature at Madras and after hearing both side arguments, the Hon'ble High Court was pleased to dismiss the CRP on 09.07.2025 with the direction to dispose of the suit within a period of 4 months. Subsequent to the dismissal of the CRP and thereafter the petitioners herein had filed petition to receive additional written statement and the same was allowed and issues were framed in this regard and after framing of the said issues, the petitioners had come forward to file the present application is nothing but delay tactics to protract the proceedings endlessly.

iv) After 2 months of passing of the orders in the CRP with the direction to dispose of the suit within 4 months, this petition is devised at the instance of the petitioners to dilute the orders passed by the Hon'ble High court in the CRP No.2236 of 2025 and the entire of the application is liable to be dismissed with exemplary cost.

4. The point for consideration:

Whether the petition is to be allowed or not?

5. Heard both side. No oral or documentary evidence have been adduced on either side.

6. Point:

6.1) The petitioners allege that issue relating to sufficiency of court fees and proper valuation of the Suit has to be taken up as a preliminary issue.

6.2) The respondent resisted petition by contending that this petition is not at all maintainable after commencement of trial, petition has been filed only to drag on proceedings.

6.3) This is a suit for partition and declaration of documents as null and void. The petitioner has alleged in the written statement that the plaintiff has not properly valued the suit and she is not in possession of the suit properties and Court fee paid by her under section 37(2) of Tamil Nadu Court Fee and Suit Valuation Act is not correct and she ought to have paid court fee under section 37(1) of Tamil Nadu Court Fee and Suit Valuation Act. This Court is of view, the fact that plaintiff is in possession or not in possession of the suit properties cannot be decided without evidence. This is a suit for partition, this Court has got territorial and pecuniary jurisdiction to try this suit. The contention of the petitioner that there is no proper valuation of the suit properties and court fee paid is not correct cannot be decided at this stage.

6.4) The learned petitioner counsel relied on

1) S.N.S Sukumaran (vs) C.Thangamuthu of Hon'ble High Court of Madras dated 27.9.2012 - 2012 (5) CTC 705.

wherein it has been held that issue related to sufficiency of Court fees and valuation of the suit properties has to be taken and preliminary issue.

2) Indirani (vs) Raja @ Annadurai of Hon'ble High Court of Madras dated 26.9.2019 - AIRONLINE 2019 MAD 1343.

wherein it has been held that preliminary issue has to be decided after commencement of trial

are in no way helpful to the petitioners case, as this is a suit for partition and whether plaintiff is in possession or out of possession cannot be decided in this stage.

6.5) After the commencement of the trial, at the stage of PW.1 cross continuation, petitioner filed I.A.No.9/2025 to reject the plaint and the same has dismissed. The petitioner preferred CRP.No.2336/2025 against order passed by this Court in I.A.No.9/2025 and the same was dismissed by Hon'ble Supreme Court on 9.7.2025 with direction to dispose the case within 4 months from the receipt of the copy of the order. The above order of the Hon'ble High Court has been received by this Court on 7.8.2025, later the petitioner filed memo stating that they have preferred a SLP in the Hon'ble Supreme Court and sought time. However petitioner did not produce any order copy of the Hon'ble supreme Court. The petitioner filed I.A.No.11/2025 to receive additional written statement and the same was allowed and additional issues were framed. The defendant did not come forward to cross examine PW.1, the evidence of PW.1 was closed and the plaintiff side evidence was also closed on 15.9.2025. The petitioner has now filed this petition .

6.6) This Court is of view that this petition has been filed only to drag on the

proceedings without any merits. The petitioners are filing petitions and petitions to stall the proceedings. Hence there is no merits in the petition, the petition is liable to be dismissed.

In this result, the petition is dismissed. Both the parties are directed to bear their own costs.

Dictated by me, typed by the Steno-typist, corrected and pronounced by me in Open Court on this the 23rd day of September 2025.

Additional District Judge,
Dharmapuri.

Petitioners Side witness, Exhibits: Nil
Respondents Side witness, Exhibits: Nil

Additional District Judge,
Dharmapuri.

Fair Order
I.A.No.13/2025 in
O.S.No.108/2019
Dated:23.9.2025.